

Review of the Governor's Message.

SPEECH

OF

HON. PALMER E. HAVENS,

OF

ESSEX.

In Assembly, February 6, 1863.

Mr. CHAIRMAN :

The part which this great State has taken in the struggle of the nation with rebellion; sending forth to the battle-field her two hundred and twenty thousand warriors, and pouring her millions of treasure into the national purse, renders it fit and proper, not only that our Governor, but also that we, the representatives of the people, in review of his message, should canvass, scrutinize and freely discuss the action of the Administration in the conduct of the war and the management of our national affairs in the great crisis through which we are passing.

In what I may be permitted to say upon this subject, I shall speak as a free man, untrammelled by party platforms, from the honest expressions of my views and sentiments upon the great questions now agitating the public mind, and upon the determination of which, no doubt, hangs the future welfare of our country, and perhaps the very existence of our Government.

His Excellency, the Governor, says: "Af-frighted at the ruin they have wrought, the authors of our calamities, North and South, insist that the war was caused by an unavoidable contest about slavery. This has been the *subject*, not the *cause* of the controversy. We have to look for the causes of this war in a pervading disregard of the obligations of laws and constitutions, in disrespect for constituted authorities, and above all, in the local prejudices which have grown up in two portions of the Atlantic States."

Mr. CHAIRMAN: This most extraordinary statement of his Excellency, sounding as it does the key-note of his whole message on national affairs, and laying the foundation for his opposition to the policy of the Administration, I propose first to examine.

But for the importance of better understanding what remedy is needed for the great evils which are upon us, it might be regarded as a

waste of time now to discuss and search out the real cause of those evils. The maxim, however, holds good with nations as with individuals, that it is at least half the remedy to understand the disease; and if on examination it is found that his Excellency has utterly mistaken the great malady which has sickened the body politic, and threatens us with national death, we may perhaps wisely hesitate and refuse to accept the prescriptions which he has made to effect a cure.

The Governor, discarding the idea that slavery is the cause of the rebellion, attempts to deal a telling blow at the war measure of the Administration contained in the proclamation of freedom to the slaves in rebel territory, not only misconstruing its bearing and relation to the acts of confiscation, but denouncing it as impolitic and unconstitutional, and as tending to results to which the State is unalterably opposed and will effectually resist.

What, I inquire, are we to understand by the statement of his Excellency, that slavery is not the *cause*, but the *subject* of the war?

Can any metaphysics or fair reasoning separate the two? Did it not become the subject for the very reason that it was the cause of the controversy? and is it not too plain for a school boy to mistake, that the disregard of law and local prejudice, put forward by the Governor as the causes of the war, are themselves but the legitimate offspring of slavery. Sir, while I concede that great deference and respect is due from us to our Executive, I cannot honestly speak my views without characterizing this expression of his Excellency as intentionally dubious and double-faced—an ingenious effort on the one hand to prepare the way for his opposition to the proclamation of freedom, and on the other to avoid the hazard of a direct issue upon a fact which stands out so plain on the page of history as not to admit of a cavil or a doubt.

I maintain, and will endeavor to show, that

slavery is the cause, and the only cause of the rebellion—the very mother of the treason which now threatens to destroy our government.

I appeal to the history of our country and its legislation during the last twenty years. On almost every page appears indubitable evidence that out of this system of slavery has sprung the controversies and quarrels that have most distracted our national councils, and more than all other causes combined produced prejudice, wrangling and ill feeling between the Northern and Southern portions of the Union.

The forecast of that great statesman, Thomas Jefferson, anticipated this as the rock on which the Union would split, if it was ever broken up; and the pervading ideas with him and most of the leading statesmen at the time of the formation of our constitution were, as stated by Mr. Jefferson himself, whose words I use: "*that the enslavement of the African was in violation of the laws of nature; that it was wrong in principle, socially, morally and politically.*"

It was an evil they knew not well how to deal with, but the general opinion of the men of that day was, that somehow or other, in the order of Providence, the institution would be evanescent and soon pass away; and with this prevailing sentiment, the fathers of our Republic consented that every essential guarantee to the institution, while it should last, should be engrafted into the constitution.

While their worst fears of its deleterious effects upon the nation's prosperity have been fully realized, their fond hope that it would disappear, with the advance of civilization, science and religion proved without foundation, and the slave power of the South, instead of yielding to the influence of enlightened humanity; itself commenced the aggressive; and from the first has been forever clamoring for additional privileges and immunities, forever exacting in its claims, and grasping for additional power and territory, until it came to constitute the most formidable antagonist to civilized progress, which has appeared for many centuries representing a system of society, at once *retrograde* and *aggressive*, a system containing within it no germs from which improvement can spring; gravitating inevitably towards barbarism, while it is impelled by exigencies inherent in its position and circumstances to a constant extension of its territorial domain.

It demanded that *slave property* should be recognized under the Federal Constitution, and be permitted to enter the common territories on an equality with other property. It obtained a decision from the Supreme Court, protecting the peculiar institution in the territories; and by inference, converting the whole Union into one great slave domain.

The labors of forty years of southern tact and energy, seemed about to be crowned with success, but the last ounce broke the camel's back. Even the old Democracy, the willing pack-horse of Southern leaders; could not carry this load. They stampeded. The North refused to adopt the Southern policy, and by a fair constitutional vote elected Abraham Lincoln; not upon a plat-

form of aggression upon Southern rights and privileges already guaranteed to and enjoyed by the South, but of *resistance only to the further extension of slavery.*

The South, baffled in their efforts to consummate their favorite schemes (except their leaders who desired the result as precipitating their conspiracy), inaugurated the rebellion and plunged the nation in war.

But as palpable as are these great truths, and as plainly as does the history of the past, point to slavery as the *cause* of the war. I will not omit calling to my aid the testimony of one, who above all others is most entitled to be heard, and best able to give evidence directly upon this question.

I refer to Alexander H. Stephens of Georgia, the Vice-President of the Confederate States, a man conceded by all to be unequalled in the South, in his ability as a Statesman, and whose philosophic mind and far-reaching discernment has given him more power and influence over the South, than is possessed by any other man, a man who when the poisonous sirocco of treason, was first sweeping over his state, alone had the courage, by his calm and manly eloquence, to attempt, to still the angry tempest and raised his voice in unanswerable argument, showing that the South had no cause to rebel; but who unable to beat back the torrent of secession, was himself finally swept away with its resistless force.

Mr. Stephens on the occasion of the adoption of the Confederate constitution, said:

"*The new Constitution has put at rest all the agitating questions relating to our peculiar institution — African Slavery as it exists among us, the proper status of the negro in our form of civilization.*" THIS WAS THE IMMEDIATE CAUSE OF THE "LATE RUPTURE AND PRESENT REVOLUTION."

"Our new Constitution is founded upon exactly the opposite ideas from the old, its foundations are laid, its corner stone rests upon the great truths, that the negro is not equal to the white man, and that slavery is his natural and normal condition. This, our new government, is the first in the history of the world, based upon this great, physical, philosophical and moral truth."

From this Mr. Stephens proceeds to show, in one of his most logical and powerful arguments, as all who have examined the same will bear me witness, *that the two forms of society cannot exist in one government*, without unceasing wranglings and disputes, and that no constitution, laws or guarantees, however wisely framed and faithfully enforced, can ever reconcile the conflicting elements of free and slave institutions commingling.

Again, Senator Mason, the great leading Statesman of the Old Dominion, while discussing our national troubles on the floor of the Senate, said:

"What is the evil? Gentlemen have well said it is not a failure to execute the fugitive slave law, it is not the passage of the liberty bills, as they are called in the various states, it is a *social war*, so far, not a war of arms, a war of *sentiment and opinions of one form of society against another form of society.*"

"How it will end, I will not venture to predict."

Allow me to summon one more witness from the South, whose testimony must also have great weight upon this question. I refer to the Rev. Dr. Thornwell, one of the ablest clergyman in the South, settled in Charleston, who wrote, by appointment, the defense of the secession of the Presbyterian Church of the Confederate States. He says in that ably written defense as follows :

"The antagonism of Northern and Southern sentiment on the subject of slavery, lies at the root of all the difficulties what have resulted in the dismemberment of the Federal Union, and involved us in the horrors of an unnatural war. It is not to be disguised, that the North cherishes a deep and settled antipathy to slavery itself, while the South is equally zealous in its defense. Recent events can have no other effect, than to confirm the antipathy on the one hand, and strengthen the attachment on the other.

Take one among the thousand Northern witnesses if you please. Said that great and conservative statesman, the lamented Stephen A. Douglas, in the memorable discussion of the Crittenden resolutions upon the floor of the United States Senate.

"If we wish to understand the real causes which have produced such wide spread and deep seated discontent in the slaveholding states, we must go back beyond the recent presidential election and trace the origin and history of slavery agitation from the period when it became an active element in Federal politics."

Also in his last great speech at Chicago Mr. Douglas said :

"I defy any man on earth to show me any one act done of which they can complain, as putting their rights in jeopardy. What one act has been omitted to be done of which they can complain? I proclaim to these assembled thousands that so far as the constitutional rights of the Southern States are concerned—so far as the rights of slaveholders are concerned—no one act has been done, no one duty has been omitted to be done under this Administration of which they can complain. There has not been a day from the time when George Washington was inaugurated as the first President of the United States down to this moment when the rights of the Southern States stood firmer under the laws of the land than they do to-day. There never has been a time when those States have not had as good cause for disunion as they have to-day. What specific cause can they assign as existing now which has not existed under every administration from the days of Washington to this moment. If you refer to the territorial question, it so happens as an extraordinary fact, that for the first time there is not an act of Congress prohibiting slavery anywhere. If you refer to the enforcement of the laws, the only complaint made has been that there has been too much energy and vigor employed in the enforcement of the fugitive slave law."

MR. CHAIRMAN, I will not multiply proofs upon this point. I have given it the more atten-

tion, for the reason that the Governor predicates his opposition to the policy and measures of the Administration, on the assumption that it has utterly mistaken the real cause of the rebellion.

The Governor says :

"The assertion that this war was the unavoidable result of Slavery, is not only erroneous but it has led to a disastrous policy in its prosecution."

I leave his Excellency to settle the great issue which he has thus raised with the plain teachings of history and the concurrent evidence of leading Statesmen South as well as North upon the question.

I leave him to maintain his nice drawn distinction between the cause and the subject of the war, and hope that either he, or some of his supporters on this floor, well skilled in metaphysics, will so elucidate the matter that common intellects may discover the difference ; and when the difference is made plain, I desire still further to be informed, what has been gained whether we call it the cause or the subject of the war.

I confess myself displeased with this effort on the part of the Executive to split hairs in describing the causes of the war, instead of frankly stating the facts and looking them in the face.

Nay, more Sir, if, as every careful reader would infer, his Excellency had reference to the great Union party as being the northern "authors of our calamities," I pronounce it not only a piece of rank injustice, but a tame and futile effort to palliate the guilt of treason committed by the rebels of the South by shouldering a portion of that guilt upon those who have committed no crime but that of hating slavery and loving liberty, and who, under all circumstances have shown unfaltering devotion to the constitution and the laws—who never denied to the South a single right guaranteed to them by the constitution, nor gave them the least provocation to rebel against the government.

Sir, it is very easy for party purposes to make these wholesale pointless charges, but it will not be found so easy a task to sustain them. I demand something more than the cry of abolition, or the unsupported statements of the Governor, to prove that the union party should be classed with the rebels of the South, as chargeable with the calamities of the war.

MR. CHAIRMAN, The true issue raised between the loyal and disloyal States is beginning to be more thoroughly understood and comprehended by the people of the North.

The great truth can no longer be disguised, that this Government must be destroyed, or the slave power of the South must be conquered and subjugated by military force: This is the dread alternative, and there is no middle ground. To make propositions of peace to the rebels based upon additional guarantees and concessions, or otherwise would be worse than "casting pearls before swine." It would reflect everlasting disgrace and cowardice upon the twenty millions of the North.

It would have no other effect upon the desperadoes of the South than to encourage them in their treason, revive their hope of a divided North and draw forth fresh volleys of their

ridicule and contempt, at the craven hearted men who would thus offer to barter away their dearest constitutional rights to obtain a dishonorable peace, and relief from the burdens of the war.

We must conquer, or exterminate these rebels, and I will add to this what is my firm belief, that no permanent prosperous peace can ever be built up on the ruins of the war, unless the great cause of all our national troubles is first wiped out.

If you have no better arguments with which to meet this great truth than to cry *fanatic* and *abolitionist*, you are at liberty to hurl the senseless epithets and blind your eyes to the teachings of the past until the fixed laws of mind and social relations, which in spite of human effort control these questions shall by their sure workings consummate their final result and demonstrate the truth of what I assert.

It is not alone the sagacious mind of Seward that has proclaimed this an "*irrepressible conflict*."

The leaders of the rebellion, headed by the master mind of Stephens, are all "*irrepressible conflict*" men.

They do not claim or pretend that the contest grows out of the failure of the North to protect them in their Constitutional rights, but maintain that the great truth has been demonstrated by the experience of the past; that the *two forms of society cannot exist in one Government*, and upon this alone they justify their secession.

Hence it is, that, from the first, the rebels have neither proposed nor been willing to listen, to *any terms of compromise whatever*. They do not ask for additional guarantees or concession, but have, uniformly since the outbreak of the rebellion, presented to the North the *only alternative of submitting to the dismemberment of our Government, or maintaining its integrity by force of arms*.

The great rebel leader in one of his recent messages says:

"The determination of the people, with each succeeding month, has become more unalterably fixed, to endure any suffering and continue any sacrifice, however prolonged, until their right of self-government and the sovereignty and independence of the States shall have been triumphantly vindicated and established."

The Richmond *Despatch* of the 10th ult., an organ of the Rebel Government, alluding to the recent peace propositions of Brooks and Van Buren, treats them with the utmost scorn and contempt, and brands their authors as "*lily-livered fools*," and further says:

"If the whole Yankee race should fall down in the dust to-morrow and pray us to be their masters, we would spurn them as slaves. We are fighting for a separation, and we will have it, if it costs the life of every man in the Confederate States."

The smooth and flowing sophistry of our facile Governor, will have no effect upon these Slave lords of the South. They comprehend too well the great issue that is raised, and will only chuckle and laugh in their sleeves over the indications of returning sycophancy and subservience to Southern dictation among their old allies in

the North, as only affording them essential aid in their work of treason.

The warring elements inherent and inevitable from commingling the two forms of society, forever creating national strife, and generating bitter prejudice between the two contending sections—their signal failure to *nationalize their peculiar institution* and extend it beyond localities where alone it is valid,—their utter hopelessness in longer maintaining their ascendancy, controlling our national affairs and monopolizing its offices and emoluments, have induced the traitors to stake all upon one desperate effort to establish a Government of their own where they can reign supreme; and they expect either to succeed in their scheme of dissolution or fall forever with all their cherished plans and favorite institution before the advancing power and free institutions of the North.

The prevailing idea in Governor Seymour's message is, that if the contending parties would desist from further agitation,—banish slavery from their thoughts, and exclude it from their legislation, peace might be again restored. But the history of the past demonstrates the fact that *this cannot be done*.

Slavery is interwoven with the very formation of our government and constitution; it mingles in all our laws; it controls the question of citizenship and the distribution of political patronage; it seeks to determine the character of new territories, and finds its way into all our courts; and while thus in a thousand ways it is thrust forward to notice, it would be attempting an utter impossibility to attempt to suppress its free discussion.

The condition of four millions of inhabitants held in servitude, and their relations to the superior race, their wrongs and discontents, and possible revolts, their influence upon the foreign and domestic policy of the nation, bringing into contact the antagonistic elements of freedom and slavery, will, in spite of all human efforts, in the future as in the past, continually breed the storms and tempests of contending minds, and none but He who calmed the troubled waters of Galilee, can effectively say to the discordant warring elements, "*Peace, be still*."

There are no safer means of judging of the future than by the experience of the past, and that experience has taught us, in sorrowful lessons, the utter impossibility of curbing and controlling the sea of public opinion—the ebbs and flows of which are alone dependent on the great undercurrents of social society.

During a long series of years our greatest and best statesmen have tried by legislative acts, resolutions and compromises to restrain the agitation of the subject of slavery, but all their efforts have only stirred up the mass of contention, sharpened the conflict, and added strength to the sway of public opinion, until it has culminated in the most sanguinary struggle and bloody war that ever desolated the earth—a war in which the slave power in rebellion is putting forth all its strength to destroy the government, in order that it may erect a new one of its own as a means of liberating itself from its

long but unsuccessful struggle with freedom and free institutions—a struggle in which it has forever lost its national ascendancy, and in which its grasping, unholy ambition was destined to be restrained within the limits established by the founders of our government, if not utterly to decline and fade away before the onward march and growing power of constitutional freedom.

And yet our *peace* Governor while he dare not openly attempt to stay the sword of justice which hangs over the head of treason—knowing that the rebels are unalterably fixed in their determination to submit to no terms but the dismemberment of our government, and a permanent dissolution of the Union—with easy flowing words, waves to the laughing demons of the South the olive branch of peace, invites them to an amicable settlement of the quarrel, in which the North are represented as equally guilty with the South, and exclaims in that insinuating style which characterizes his whole message: “We must not wear out the lives of our soldiers, nor exhaust the earnings of labor by a war *for uncertain ends, or to carry out vague theories.*”

Sir, I stand here to defend the Administration of honest Abraham Lincoln from this back-handed aspersion upon his motives in the conduct of the war.

The cry of *abolition* has become a convenient hobby by which to excite and prejudice the present sensitive feelings of the masses, and make them believe that their blood and treasure are required to carry out a scheme of slave liberation, instead of crushing the rebellion.

Upon this sleek little hobby, aided by the cohorts of Fernando Wood and the party watch-words of “*stop the draft,*” “*compromise,*” and “*an early peace,*” industriously circulated and whispered in the willing ears of the restless, though loyal people, eager, thoughtlessly, to catch at even the shadow of relief from the burdens of the war, and while a vast majority of Union voters were absent from the State, supporting the government on the field of strife, his Excellency managed, by a small majority, to ride into power.

Sir: I will not deny that there are Abolitionists in our midst, who, losing sight of the true interests of our country, and with but the one all-controlling idea of liberating the slave, would be willing to divert this war into a crusade against slavery alone, and to break up this Government, if necessary, to accomplish this fanatical scheme. I will not deny that there is a class of misguided men at the North (few in number, thank Heaven,) who would violate our Constitution and hazard all the priceless interests involved in the perpetuity of our Government, rather than that the institution of slavery should not be abolished.

Sir: I take this occasion to denounce that class of men as traitors to their country, who deserve to hang upon the same gallows with the ringleaders of the rebels of the South.

Sir: I am for the *Constitution as it is, and the Union as it was*, leaving it for the rebels of the South to determine for themselves, whether they will yield to the national authority and the efforts

of the Government to restore the *Union as it was*, and save their country and its institutions, or continue in rebellion and lose all in the track of desolating war.

If the South would to-day lay down their arms—return to the Union and submit to its authority, while I firmly believe that, in spite of every law and Constitutional provision, however faithfully observed, which the wisdom of man could devise to foster and protect it, the institution of slavery is doomed, by virtue of the fixed laws of social organization which know no human control, to vanish and fade away before the onward march of civilization and freedom: yet, so long as the miserable hantling of barbarism and oppression survives the blows which its suicidal course has inflicted upon itself, *I would not deprive the South of one right or privilege guaranteed to them by a liberal construction of the Constitution as it is.*

There is no price I would not pay—no sacrifice, short of national honor, that I would not make to save my country from the horrors of secession and dissolution. There is no proposition more firmly established or more generally concurred in by the wisest Statesmen in both Europe and America, than that of the utter impracticability of separate independent Governments existing within the present borders of our Union. Let the doctrine of secession be once established and submitted to, and these States would become like lost pleiades, plunging into chaos and night.

Mr. CHAIRMAN:—I speak at this time under the solemn conviction that we have approached the verge of that crisis which is to decide the fate of our nation,—a crisis in which, if we fail, the death-knell of the Republic is rung—social anarchy will have commenced its reign of terror, and the fragments of our once prosperous and happy Union will drift without chart or compass in wild confusion, amid the storm of civil commotion.

With these views and feelings, I unhesitatingly say, that if the rebels will not lay down their arms and submit to the national authority, but in the future, as in the past, present no alternative *but dissolution or war to the bitter end*,—then, whatever may be the cost in blood and treasure, whatever the endurance and sacrifice required of the North, even though it do “*wear out the lives of our soldiers and exhaust the earnings of labor,*” I am for prosecuting this war with unabated vigor and conquering the revolted territory inch by inch, unfettering and protecting in its progress the few who still remain loyal, and remunerating them for all their losses occasioned by the war measures of the administration, until the South either yields and returns to its allegiance or the last vestige of treason and rebellion—the last armed traitor, and the great cause that seduced him from his allegiance are alike utterly exterminated and wiped out.

As the issue between the contending parties is now made up, with all deference to the views of his Excellency, I think one of two “*extremes will prevail.*”

I know of no middle ground between Union and Secession, between loyalty and disloyalty, upon which the people of the North can stand.

If by any Democratic or other political dictionary, these sentiments make me an abolitionist, you are welcome to call me such.

Resting upon the great principles of action which I advocate, with unflinching devotion to the *Constitution as it is*, no opprobrious epithets, no specious argument designed to *prepare the way for a craven peace, a dishonorable compromise with treason*; will move or disturb me in the least.

I am willing that the South should enjoy all their rights under the Constitution as they have ever done, but I am not willing that our Government should be broken up and our country lost, to save the miserable relic of barbarism to which they cling, and *if one or the other must be destroyed in the great conflict, which I firmly believe*, I do not hesitate to say let the Government triumph, and let slavery and all the other foes of our priceless Union sink into oblivion.

His Excellency, without argument, or authority of precedent, denounces the proclamation as unconstitutional.

Sir, Instead of accepting this unsupported assertion, or guiding my views by *either hatred or love of slavery*, I propose, briefly to examine this question upon its merits.

The Constitution simply reposes in certain branches of the Government, the right to declare war and suppress insurrection.

It does not attempt to *define the manner in which war shall be waged, or rebellion suppressed*.

It would be impossible to do this. The right and authority to determine all such questions must therefore, of necessity be vested in the Commander-in-Chief of the army and navy of the nation, and the extent of his power and authority in the adoption of any particular means, *is neither measured, limited nor derived, except by implication from the Constitution, but are regulated and defined by the laws and usages of war, as settled and established by the law of nations*.

To that law therefore, Mr. Chairman, I appeal for the solution of the question as to the authority of the President to issue the proclamation.

In reference to *civil war*, Vattel the world's great author on this law, declares as follows:

"When a nation becomes divided into two parties, and no longer acknowledging a common superior, the war betwixt the two parties in every respect, is the same as that of a public war between two different nations."

And in defining the rights of war between different nations or governments, he lays down one of those rights as follows:

"The right of weakening the enemy or disabling him from supporting an unjust violence. The right to take from him all means of resistance. A nation has a right to deprive the enemy of his possessions and goods, of everything which may augment his forces and enable him to make war. This, every one endeavors to perform in the manner most suitable to him."

There is no disagreement among loyal men, that the end of the war is the preservation of the Union. Hence the pertinency of what the great author has also laid down in another place. He says:

"When the end is lawful, he who has a right

to prosecute the end is warranted in the use of all necessary means to attain it. Right goes hand in hand with necessity, and the exigency of the case, and of this the Ruler must judge."

Both Montesquieu and Wheaton concur with Vattel in what he has here laid down in relation to civil war, maintaining that in a war between two contending factions in a nation, struggling for the supremacy, the same laws and usages should prevail as in a war between two independent nations.

From these authorities the conclusion is not doubtful, that by the rules and usages of war, the President as Commander-in-Chief of the army and navy, has the right to use all necessary means, and adopt and put in force all necessary measures to secure the end sought, and upon him alone rests the responsibility of determining *what means and measures are necessary* in accomplishing the desired object, to wit: the restoration of the Union with no limitation to his authority, except the rules laid down by Vattel, and other publicists, and to which the nations have subscribed.

Since the developments of the war, no one will deny that the institution of slavery has proved an element of strength and endurance to the rebels, and in the language of Vattel, *"augments their force and enables them to make war,"* and the proclamation of the President is in its practical effect but an order to his generals to *take from the enemy that element of strength*, and if possible paralyze the right arm of his power in the conflict.

But it is contended that, as a war measure it is *unwise and impolitic*.

MR. CHAIRMAN—It has been difficult for me to understand how any true lover of his country can raise his voice in opposition to the proclamation as a war measure until it has had a fair trial. Were it ever so wise and efficient a measure, vigorously supported and put in execution, the captious criticism and partisan opposition raised against it, may prevent its otherwise telling effect upon the rebellion.

These opposers concede, that in our efforts to conquer the Rebel States and reduce them to their allegiance to the General Government, we are authorized by the laws of war to weaken the foe by destroying their property, laying waste their fields and bombarding their cities—that we may starve them out by cutting off and destroying their supplies—that we may take their lives and deluge their country in blood—but when the Government, in its dire extremity, as an additional means of crushing the traitors, proclaims liberty to their slaves—a means always heretofore recognized by civilized nations as a legitimate and proper war measure—the cry of *abolition*, and *violation of the Constitution*, is raised—and we are warned that the measure will so *offend the rebels*—so widen the breach between the North and South—that a reconciliation can never be effected.

To such awful inconsistency and absurd reasoning will the northern apologists of slavery resort to shield this wicked institution from its impending fate.

Sir, in my reflections on this subject, another sentence in the last great speech of Douglas's crowds itself upon my mind in painful association. He said,

"In this war there can be none but patriots and traitors." While I would not in charity, claim that there is a literal fulfillment of this prediction of the great statesman, the truth cannot be mistook that the proclamation has acted like the enchantress' wand in bringing to the surface the disguised and covert treason, which secretly among the people of the North, and even in our army was plotting the destruction of the Union and paralyzing the movements of its forces.

Sir, I contend that it is the duty of every loyal man to sustain the President in this war measure even though he may doubt its propriety. He, as Commander-in-Chief *is the sole constitutional judge of its military necessity.* He has adopted it in the honest exercise of his judgment and in the discharge of his constitutional duty as a means of crushing the rebellion.

There is no proof or probable cause to suspect that the President has lost sight of the great end of conquering the rebellion and restoring the Union, and has turned the war into an abolition crusade. He did not enter upon the measure hastily, but forbore, and held his generals in check, until the progress of events and mammoth proportions of the rebellion demanded that the blow should be struck at this element of strength in the enemy, and no man unblinded by prejudice can fail to see for himself that in the hands of Federal commanders pressing the rebel states at all points as with a fiery circle, this measure will strike home at the very source and mainspring by which the rebellion lives and is energized.

Do the opponents of this measure shrink from the prospect of thus crushing the rebellion? Are they fearful that this great *"Goddess Diana,"* so long enshrined in their hearts' affections is to be forever dethroned?

There are no doubt many who are misled by party prejudice and old associations, and others by a specious false logic into honest doubts on the subject, but the great mass of opposition to this effective war measure springs from slavery itself, corrupted leaders, and from the hearts of those who *have more love for slavery, and greater fear that it should be injured, than they have loyal attachment for the Union.* It was this class of men who raised the howl of abolition, the moment the President in the extremity of his struggle with rebellion, aimed a blow directly at the heart of the enemy, and attempted to put the heel of the nation upon the head of the viper that has stung the body politic, diffused the poison of treason into its life, and is now hissing the venom of secession in the North as well as in the South. It is manifest to any careful observer, that this howl of abolition comes exclusively from a class of men, whose leaders at least, are at heart *opposed to any war except a war against the Administration.*

Sir, it is a melancholy spectacle, that at a time like this, when we are struggling for our very existence as a nation, a party should be found,

whose sole business would seem to be to embarrass in every possible way the Administration of the government.

In the place of an *outspoken condemnation of the rebellion* these men have always much to say about the provocation of abolitionists, of personal liberty bills, of the fanatics of years past, of great wrongs inflicted on the South and of fraud and corruption in the government and army, indications, which, if they mean anything, mean justification, or at least palliation of the rebellion.

His Excellency in opposing this measure, lays great stress on the fact, that the acts of July last provided that the property and slaves of rebels, *on conviction of treason* shall be confiscated, and hence argues that the only additional effect of the proclamation is to destroy the property and rights of the few Union men who may still remain in the rebel territory, and who he says should be protected.

In his tender solicitude for the rights of his *"Southern brethren"* the Governor seems unable to discriminate between a great military necessity, a great war measure designed only to crush the rebellion and save the nation, and a legislative Statute on which to predicate the conviction and punishment of treason in a judicial tribunal.

He and his organs and party leaders have cried *"abolition"* so long and so successfully, that from the mere force of habit they seem unable to drop the party watch cry long enough to examine this war measure on its merits.

Sir, this proclamation has no relation whatever either to the moral and political questions growing out of slavery, or the judicial punishment of the crime of treason. It soars above all these incidental or collateral considerations, and is to be judged alone on its merits as a *war measure*—its adaptation to the great national necessity of crippling the foe with whom we are contending.

If all, both in Europe and America, who hate slavery and love liberty are rejoicing over the consummation of what they have long desired, and claim to discover the hand of Providence in guiding the great events which have thus resulted in extending freedom to 4,000,000 of slaves, dependent only on the triumph of the national arms, this fact will furnish no argument that *abolition* has been the *end* sought by the President, instead of the *means* legitimately used by him to crush the rebellion.

MR. CHAIRMAN: I cannot forbear in this connection, and as germane to the subject under consideration, to make a quotation from Virginia's orator and statesman of revolutionary times, which came to my notice on my investigation of this question. I quote from Patrick Henry's speech, delivered in the Virginia Convention, when the Constitution of the United States was under consideration.

Mr. Henry said: "Among ten thousand implied powers, [contained in the constitution,] which they may assume, they may, if we be engaged in war, liberate every one of our slaves, if they please. * * * Let that urbanity, which I trust will distinguish America, and the neces-

"sity of national defence, let all these things operate on their minds, they will search that paper and see if they have the power of manumission. And have they not, sir? Have they not the power to provide for the general defence and welfare? May they not think that these call for the abolition of slavery? May they not pronounce all the slaves free, and will they not be warranted by that power? There is no ambiguous implication or logical deduction. The paper [the constitution] speaks to the point. They have the power in clear, unequivocal terms, and will clearly and certainly exercise it!"

I concede, sir, that the proclamation destroys the private property of loyal Union men, (if indeed any such remain in rebeldom,) providing, however, for their remuneration from the nation's purse. And is this in conflict with the constitution and usages of war?

Suppose, sir, there had been a dozen loyal Union men owning splendid residences in Fredericksburgh at the time of its recent bombardment, would that have furnished any reason why the commanding general should hesitate to pour the iron hail upon the devoted city, and laying all in one common ruin?

All agree that in such cases *private rights must yield to great national necessities*, leaving it for the government to remunerate and make whole, so far as practicable, the loyal sufferers.

I confess myself unable to draw any distinction in principle between a proclamation liberating the slaves of a rebel state, as a war measure to weaken the power of resistance, and the bombardment of a city, or the destruction of any other property or element of strength for the same purpose.

Mr. CHAIRMAN: The message of his Excellency takes strong ground against the right of the President to make arbitrary arrests, and denies his power to suspend the writ of *habeas corpus*.

Sir, I came to Albany, impressed with the belief that these arrests could not be sustained; that they were an infringement upon the rights of the states not embraced within the arena of the war. When my democratic friends at home complained of the Administration in this regard I felt inclined to yield them a *cognovit*, that the government was in the wrong. I resolved, however, to avail myself of a thorough investigation of the whole subject before hastily passing judgment of condemnation upon an Executive who I believed was honestly acting in the discharge of his official duty as he understood it.

I have made that investigation, and while I am convinced that no express provisions of the constitution, or act of Congress, has invested the President with the power to make these arbitrary arrests *within the borders of states where the civil law is unobstructed*, I find much by way of precedent to sustain the course he has taken; and if he has erred, it has been under circumstances calling for no severe criticisms or censure from any loyal, liberal-minded citizen. The President is sustained in his course by some of the most eminent, legal talent in the nation, including the

venerable Horace Binney, standing at the head of the Philadelphia Bar, Hon. Reverdy Johnson, and Attorney-General Bates.

Mr. DEAN: Do I understand the gentleman from Essex to state that Reverdy Johnson sustains the President in making these arbitrary arrests, and suspending the writ of *habeas corpus*?

Mr. HAVENS: I do so state.

Mr. DEAN: I know Mr. Johnson personally, and I understand his opinion to be right the reverse from this.

Mr. HAVENS: I will furnish the gentleman from New York with a reference to Mr. Johnson's published opinion, as I have stated it, or make a public correction of my error.

Both Jefferson and Jackson had exercised the same power. Gen. Jackson suspended the liberty of the press in New Orleans, and kept the entire city and its suburbs under martial law, long after the British had left. He arrested Judge Hall for issuing a writ of *habeas corpus* in favor of a French subject who had been arrested by Gen. Jackson's orders. Judge Hall, in turn, fined the old hero \$1,000 for contempt, which he subsequently paid, but a grateful nation refunded the money with interest.

This act of our Government, I claim to be an endorsement by the nation, of the right of the Executive, in times of public danger, to make these arbitrary arrests, even in defiance of the civil tribunals.

On the occasion of the Burr conspiracy, Gen. Wilkinson caused the arrest of several persons suspected of complicity, and by proclamation suspended the writ of *habeas corpus*, claiming that in such a time of *public danger*—though as yet the *administration of civil law was unobstructed*—he was justified in setting up for a time the *military authority over the jurisdiction of the courts*. Mr. Jefferson in writing to Governor Clairborne upon the subject, used the following language, and I beg my democratic friends to give attention to what the great Apostle of Liberty—the strict constructionist of the Constitution—as Mr. Jefferson has ever been considered—says upon this subject. He lays down a principle of action, by which I am willing to abide. He says, in that celebrated letter, as follows:

"On great occasions every good officer must be ready to risk himself in *going beyond the strict line of law when the public good requires it*. His motives will be a justification as far as there is any ultra-legal proceedings, and no indulgence of private feelings."

Again, in another part of the same letter, Mr. Jefferson writes as follows: "*The Feds and the little band of Quids in opposition will try to make something of the infringement of liberty by the military arrest and deportation of citizens; but if it does not go beyond such offenders as Swartwout, Bollman, Burr, Blennerhasset, Tyler, &c., they will be supported by the public approbation.*"

Allow me also to cite an English precedent cited by Lord Macauley, occurring in the reign of William III., and which was the first instance in which the writ was suspended, and arbitrary arrests were made in that nation. The occasion

was the insurrection of Sir George Barclay. A plot had been laid, and was about to be consummated for the assassination of the king and a French invasion. Just as the fatal blow was about to be struck it was discovered. It became of the utmost importance that it should be nipped in the bud, and arrests were made by the authority of the king, *without any legal process*, of the principal conspirators. Parliament was in session at the time, and yet no effort was made to suspend the writ of *habeas corpus*, because the least movement towards a bill would have alarmed the conspirators and enabled them to make their escape; but after the leading conspirators had been arrested and secured, the king came down to both Houses of Parliament, and informed them what he had done. The two Houses thanked him for the course he had pursued, and immediately passed two acts—one approving and ratifying the arrests, and the other indemnifying his ministers and protecting them from the consequences of having made the illegal arrests.

And from that day to this, *not a single instance can be found in English history, in which Parliament has ever exercised the power of suspending the writ, until after it had been in point of fact, suspended by the Crown*, and then what they do is to sanction and adopt the acts of the King or his ministers, and indemnify them against the consequences of their proceedings.

Mr. Chairman, I cannot but think that if Governor Seymour had lived in that day, he would have severely lectured the British Parliament, as he has done our Congress, for thus "*attempting to shield unconstitutional acts, by unconstitutional laws.*"

Mr. Chairman, These precedents and many more which might be cited, have convinced me that there are *times and circumstances in the history of all nations, when, though illegal, it is proper and right to make these arbitrary arrests, acting for the time upon the great law of self-preservation and self-defense, known and recognized everywhere, a law which, although written in no book or constitution, is placed by the finger of God upon every human heart, as a condition of national as well as individual existence.*

I concede however, that these arrests never should be made, and in fact never can properly be made in this Government, except under circumstances when in the language of Jefferson, "*they will be supported by the public approbation.*"

Sir, Sustained as the President was, by the precedents and eminent legal advice to which I have alluded, considering the trying perilous circumstances through which he has passed, the immense responsibility suddenly thrown upon him as the nation's protector, can any man, but he who sympathizes with rebellion, have the heart to cast censure upon his acts, even though a few errors may have been committed, and though the nation should finally overrule him and his advisers as to the course pursued.

Sir, The only fault I feel disposed to find with the action of the Government in making these arrests, is that they were not followed with the proper proceedings to convict and punish the

guilty, and acquit the innocent, in the judicial tribunals of the nation.

In his strictures upon the action of the Administration, the Governor further says:

"The suppression of journals and the imprisonment of persons have been *glaringly partisan*, "allowing to some the utmost licentiousness of "criticism, and punishing others for the fair "exercise of the right of discussion."

Sir, While I will not claim that under officers have not committed some errors in carrying out the orders of the Government, nor that the Government itself has not made some mistakes, from erroneous information (and I only wonder that there has not been more of them), I do here in my place deny that the President or his Cabinet are obnoxious to the charge of political partiality which his Excellency has here made, and I take the responsibility of pronouncing it an unmitigated slander, wholly unsupported by the facts in the case, and I demand from the Governor, or his supporters on this floor, the proofs upon which this official party indictment is filed against the Administration.

I am willing to concede the significant fact, apparent to all, that the Northern traitors who have seen the inside of our forts, under the orders of the Government, have belonged to the Democratic party, but that this circumstance arose from *partisan discrimination and partiality*, I deny; and I deny also, that "*fair discussion*" has been suppressed, unless indeed, *outspoken treason and open advocacy of the rebel cause*, shall be considered by his Excellency, subjects of "*fair discussion*" at the North.

Sir, The truth is, no advocates of treason and the right of secession, no opposers to the enlistment of Volunteers, could be found in the Union ranks, and hence no arrests from that party.

If it is claimed that a few fanatics of the Wendell Phillips stamp have been allowed to say and publish too much of their *radical abolitionism*, I admit there is some foundation for the claim, and for one I should have rejoiced to see these men shut up with the others—but I repel the insinuation that they are members of the Union party, or that they have received any *sympathy or forbearance from the Administration on that ground*. It is also but just in this connection further to say, that as bad and mischievous as has been the course of these misguided men, they have never, to my knowledge, opposed the government in the prosecution of the war, nor advocated the cause of the rebels as justifiable.

Mr. Chairman: There has been much discussion and division of opinion as to which branch of the government has the power under the Constitution, to suspend the writ of *habeas corpus*, in cases where the same is authorized to be done. I cannot, for want of time, treat at length upon this question.

The Constitution being silent upon that point, I argue that from the very nature of the act to be done, and the utter impracticability of its being done by the legislative branch with any success in the sudden emergencies, where, if at all, the measure is needed, that it is an executive

power, and can alone be exercised by the President.

If this consideration were not sufficient to settle the question, I claim that the history of this provision of the constitution, at the time of its adoption, should remove all doubt.

We find in Elliot's Debates—page 229—that the provision, as first introduced by General Charles Pinckney of South Carolina, was as follows:—

"The privileges and benefits of the writ of *habeas corpus* shall be enjoyed in this Government in the most expeditious and ample manner, and shall not be suspended by the Legislature except upon the most urgent and pressing occasions, and for limited time, not exceeding — months."

This was a proposition, distinctly made, that the power of suspending the privilege of the writ of *habeas corpus* should be exercised by the Legislature upon urgent and pressing occasions, and the Convention refused to adopt it. On a subsequent day Gouverneur Morris of New York brought in the clause as it now stands in the Constitution, and it was adopted, differing from the clause as originally proposed by Mr. Pinckney in the following particulars: First, it confined the exercise of the power to cases of insurrection or invasion—and second—there is an omission of all reference to legislative power.

To me this is conclusive that the framers of our Constitution designed this as an Executive power. Else why, with the whole subject before them, did they strike out all reference to legislative power in the clause as finally adopted?

I regret, Mr. Chairman, that the limits of a speech confined within reasonable bounds will not allow me to discuss more at length the great questions presented by the Message of his Excellency, and which, most unfortunately at this critical time in our nation's history, have created such violent party issues.

When the people are blessed with peace, their own sense of propriety is all the restraint which is needed upon free discussion; and party divisions on questions of administration are natural and wholesome. But in civil war, how vast the change. The most violent and intense passions are aroused, to which, at other times the public heart is a stranger. Overwhelming impulses take the place of cool party conservatisms. Party organizations, under such circumstances, are fraught with fearful consequences.

Sir, I need but to refer to the recent scenes upon this floor, as a lamentable demonstration of this truth.

The discernment of the lamented Douglas pointed to this when in the commencement of the great struggle he spoke as follows:

"Allow me to say to you, you will not be true to your country, if you ever attempt to manufacture partisan capital out of the miseries of your country. When calling upon Democrats to rally to the tented fields, leaving wife, child, father and mother behind them, to the rescue of the President that you elected, do not make war upon them, and try to manufacture partisan capital out of a struggle in which they

"are engaged from the holiest and purest of motives."

It would be a happy day in America if, instead of the disposition now manifested by the Democrats to cast censure and condemnation upon all the measures of the administration—magnifying its faults with captious criticism, and endeavoring to weaken and destroy its power and efficiency by violent political and partisan opposition, they would adhere to the advice of their former leader, the departed statesman of Illinois.

Mr. Chairman, I cannot take my seat without saying a few words in defence of New England.

The highly significant remarks of the Governor touching the position which New England now occupies in our national affairs, does not alone induce me to give attention to this part of his message, but sir we hear from the Democrats in every quarter the vilest slanders and epithets heaped upon the head of old New England, until it has apparently become a prominent feature in Democratic politics.

Mr. FREAN: The gentleman from Essex need not defend New England on my account I have nothing against New England.

Mr. HAVENS: I am glad to hear that there are exceptions among the Democrats, in the present tirade of slander and abuse upon New England, and I invite the gentleman from Richmond to join with me in its vindication.

As a rare specimen of this abuse, allow me to call attention to the following resolution which has recently fallen under my notice, which was passed by a large convention of Democrats in an adjoining State:

"Resolved, That had it not been for the fanaticism and speculation of New England our generation would not have witnessed the ghastly spectre of disunion: and were it not for the same causes, still potent for evil, those difficulties could be readily adjusted; therefore we declare that when we have exhausted every reasonable effort for the restoration of the Union as it was, should New England stand in the breach, then we will cheerfully say to New England, with all her cupidity, with all her meanness, fanaticism, follies, and moral turpitude, we bid you good by, remembering you only for the wrong you have done us."

Such, Mr. Chairman, are the appeals now made to the people in the name of Democracy. Forever complaining and ranting over unavoidable prejudice which has grown up in different sections as the offspring of slavery, these Democratic preachers of peace and unity are now engaged in sowing dissensions, stimulating the local prejudices of one section against another, and weakening the bands of the Union by fomenting internecine strife.

Sir, these men forget the record of New England in the Revolution. They forget how the blood of her sons was poured out in achieving our independence.

They have forgotten that the old Bay State alone, furnished more soldiers by some 8000, than all the States south of Pennsylvania put together, and that New England furnished and

maintained 118,300 men for the war of the Revolution, more than half of the whole number placed at the service of Congress. There stands her record, Sir. It cannot be wiped out. And when the present great contest was forced upon us; and our very Capitol was threatened by traitors, the sons of New England, true to her traditions, were the first to rush to its defense.

Sir, I deem it my duty on this floor to brand with infamy, these aspersions upon the fair name of New England.

The only offense which can be charged against her, is her unfaltering devotion to freedom and constitutional law, and her eternal hatred to slavery, oppression and treason. She will not consent that one jot or tittle of the Constitution and charter of liberty she did so much to establish, shall be bartered away in an unholy compromise with the rebels in arms.

For this, the malice and spite of the slave power at the South, and its sympathizing friends at the North, is now showered upon her without stint or measure. But all will be of no avail, the winds and waves could as easily shatter her rock-bound coast, as this torrent of threats and abuse, swerve her from her position, and God grant that she may ever remain the impregnable, citadel of American Liberty.

She needs no eulogy from me. The successive waves of her population, have carried the virtues, the intellect, and the enterprise of New England, over every rod of free soil in this Union.

Brightest upon the page of our country's history, stands her literature, her arts, and her triumphs in science. The Goddess of Liberty reigns Supreme among her granite hills; her virgin soil is not polluted by the foot-print of the slaveholder, nor is the crack of the driver's whip heard, either in her solitudes, or peopled cities.

Sir, My heart is oppressed and sad at the ominous signs which surround us. The recent inquiry made by a venerable editor "*where are we drifting?*" cannot be easily answered.

The damnable heresy of secession and rebellion against constitutional law, seems to be spreading far and wide in its contaminating influence. Even the Democratic leaders in Congress, now openly favor a re-construction of the Union, with New England left out. Nay more, upon this very floor, in the Capitol of the Empire State, *dark insinuations of revolution, bloodshed and civil strife*, are heard from certain leading Democratic members, in case their political opponents attempt to exercise their constitutional rights, in a manner distasteful to them.

But I will not dwell upon these sad indications, but cherish hope that brighter and better days are in store for this Republic, and that a kind and overruling Providence is guiding the great storm, which is now raging for the nation's good.

I will not, I cannot believe that the demon of slavery and secession is to break up this model Republic, and blot it from the history of nations.

This is the first time in the history of the world that two antagonistical systems of civilization, have met face to face in deadly conflict for the mastery.

Can we doubt, that in the wise purposes of Providence, the issue will not be on the side of freedom and free institutions? Our mission as a nation is not yet accomplished.

From the stormy conflict now raging, through the river of blood over which we must pass, I discover a passageway to the promised land of peace and security. We may not, as yet, have tasted the dregs in this bitter cup of wrath.

We may yet wade through a sea red with the blood of our slaughtered sons, but under the guidance of Providence and our own high destiny, we shall land safely upon the other bank.

With an anxious heart and restless mind, I have endeavored to contemplate our present condition in the light of past history. Our national struggle has seemed to me analogous, to that which took place in England more than two centuries ago.

The English struggled against royalty, we against slavery.

The English struggled to confine royalty within constitutional bounds, the Union party of this country struggle to confine slavery within constitutional bounds.

We have never interfered with it in the States where it existed, but have labored only to confine it within those bounds allotted to it by the Constitution. In the English civil war, it was soon found necessary to do more than to *confine royalty within constitutional bounds*. In order to *preserve the liberties of the people*, it was found *necessary to destroy it altogether*.

The wounds of deadly hate had pierced so deep, that a reconciliation became impossible.

And, Sir, with us, the present indications, to my mind are, that we shall be compelled, *in order to save our country, to treat the power of slavery, as the power of royalty was treated in England*.

There were dark and dreary days in the great English struggle, when despair reigned in almost every heart. Yet a few trusting spirits never lost heart or hope. Among those spirits stands out prominent, the immortal Milton, who declared that the nation "*was but casting off its old and wrinkled skin of corruption and slavery*," and was destined to outlive its pangs, and wax young again in a glorious and prosperous career.

I love to contemplate the sublime strains in which the great Milton breaks forth in the darkest period of English history, as applicable to our own present condition.

"Methinks," said he, "I see in my mind a
"noble puissant nation, rousing herself like a
"strong man after sleep, and shaking her invincible locks. Methinks I see her as an
"eagle mewing her mighty youth, and kindling her undazzled eyes at the full midday
"beam; purging and unscaling her long abused
"sight at the fountain itself of heavenly radiance, while the whole noise of timorous and
"flocking birds, with those also who love the twilight, flutter about amazed at what she means,
"and in their envious gabble prognosticate a
"year of sects and schisms."

Mr. Chairman, this free Government—this noble Constitution, is not destined to expire in its youth, and go out in darkness. We shall emerge

from the contest a purer, nobler, freer people, more prosperous and happy than ever before.

In the beautiful imagery of Scripture, "Our sun will not be permitted to go down while it is yet day." We shall continue to be a beacon light to illuminate the nations of the world, and to beckon them on their path to freedom.

Since the above speech was delivered by Mr. Havens, he has received from the Hon. Reverdy Johnson, the following letter :

WASHINGTON, *February 8, 1863.*

HON. P. E. HAVENS, ALBANY.

Dear Sir—I have yours of 6th.

The views I have entertained on the questions you mention were originally published in the *National Intelligencer*, anonymously, but afterwards with my per-

mission, under my own name, in the *Rebellion Record* of Mr. Frank Moore. You will find them in Vol. 2, p. 185, a book that I suppose you can easily obtain in Albany.

I have no copy of the *Intelligencer* containing the article, or I would send it to you with pleasure.

Subsequent reflection has caused no change in my opinion. The power, or rather what has been done under its protection by subordinate officers, has doubtless led to abuses, in individual cases—but abuses all power is subject to. It argues nothing, however, against the power itself.

You will see I do not deny that the writ may be suspended by *Congress* as well as the President.

Very respectfully your obedient servant,
REVERDY JOHNSON.

Mr. Johnson's published opinion referred to in his letter, will be found fully to sustain the President as stated in Mr. Haven's speech.